CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force		Discourt.	U.S.
Raquel Velasquez		Squad #4	201810590		Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Pr	recinct:	18	Mo. SOL	EO SOL
Thursday, 12/20/2018 9:11 PM		Broadway and Quincy Street			81	6/	20/2020	2/4/2021
Date/Time CV Reported		CV Reported At:	How CV Reported:	.]	Date/Time	Rece	eived at CCI	RB
Thu, 12/20/2018 9:15 PM		CCRB	Call Processing System The		Thu, 12/20/2018 9:15 PM			
Complainant/Victim	Туре	Home Addre	SS					
Witness(es)		Home Addre	SS					
Subject Officer(s)	Shield	TaxID	Command					
1. POM Billy Gomez	01518	949041	SRG 3					
Witness Officer(s)	Shield N	Tax No	Cmd Name					
1. POM Henry Yanez	17147	935999	SRG 3					
Officer(s)	Allegatio	on			Inve	stiga	tor Recon	nmendation
A.POM Billy Gomez	Abuse: P	olice Officer Billy Gom	ez questioned § 87(2)(t)				
B.POM Billy Gomez		Police Officer Billy Gom with a business card.	ez failed to provide	§ 87(2)((b)			
§ 87(2)(g), § 87(4-b)								

Case Summary

On December 20, 2018, §87(2)(b) filed this complaint with the CCRB via the Call Processing System.

On December 20, 2018, at approximately 9:11 p.m., \$87(2)(b) was sitting in his car parked at Broadway and Quincy Street in Brooklyn. Police Officer Billy Gomez and Police Officer Henry Yanez, from Strategic Response Group 3, approached \$87(2)(b) s car. PO Gomez asked \$37(2)(b) if he was "blazing," (Allegation A: Abuse of Authority, \$87(2)(b) s 87(2)(c) with his business card (Allegation B: Abuse of Authority, \$87(2)(d) \$87

was neither summonsed nor arrested as a result of this incident.

There is no video evidence related to this case.

Findings and Recommendations

Allegation A: Abuse of Authority- Police Officer Billy Gomez questioned S87(2)(b)

It is undisputed that PO Gomez questioned S87(2)(b) about marijuana.

stated that he and his friend, § 87(2)(b) were sitting in § 87(2)(b) which was parked on Broadway and Quincy Street. They sat in the car for approximately a minute and discussed what they were going to eat from a bodega on the corner. A marked SUV parked directly in front of them, and PO Gomez and PO Yanez exited and walked into a smoke shop located a few doors down from the bodega. §87(2)(b) exited § 87(2)(b) remained in the car with his windows rolled up. Approximately entered the bodega. § 87(2)(b) two to five minutes later, the officers exited the store. PO Gomez walked towards §87(2)(b) car, drew his flashlight, and shined it in to his car. PO Yanez stood to the side of PO Gomez. ser(2)(b) rolled down his passenger's side window to see what the officer wanted. PO Gomez asked, "Are you waiting for someone?" § 87(2)(b) replied that he was waiting for a friend, who was inside the store getting sandwiches. PO Gomez said, "I've been doing this job for ten years, I know you're blazing." \$ 87(2)(b) asked PO Gomez what he was talking about. PO Gomez said, "You're smoking, right?" §87(2)(b) responded that he was not and said that he is an electrician for Amtrak who is regularly drug-tested, and thus cannot smoke marijuana. PO Gomez told "Get out of here." PO Gomez and PO Yanez returned to the marked SUV and left. rejoined § 87(2)(b) a minute or two after the officers left. § 87(2)(b) smoking marijuana, having marijuana in his car, or that anyone had ever smoked marijuana in his denied partaking in any other activity that might have been confused for the consumption of marijuana (Board Review 01).

PO Gomez stated that he and PO Yanez exited a restaurant at Broadway and Quincy Street, where they had been getting food. PO Gomez did not recall if he was on meal at the time. The officers were inside for approximately five minutes. When they came out, PO Gomez observed scar parked in a bus stop on Broadway. PO Gomez approached the driver's side of the car. PO Gomez did not recall if the car's windows were down or if he asked (\$87(2)(b)) to lower the windows. PO Gomez did not recall if he noticed the car when he first arrived at the

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that he was in a bus stop and immediately smelled the odor of marijuana coming from the car. PO Gomez could not specify where the odor was coming from the marijuana smelled burnt or unburnt. PO Gomez did not observe any contraband. Solution is eyes were bloodshot. PO Gomez asked \$87(2)(0) if he was smoking, or had been moking; he could not recall his exact phrasing. Solution if he was smoking, or had been said that he was not. PO Yanez stood ext to PO Gomez during this exchange. PO Gomez did not recall if PO Yanez discussed melling marijuana as well. PO Gomez exercised his discretion and chose not to pursue any auther action with \$87(2)(0) PO Gomez told \$87(2)(0) to leave the bus stop, and \$87(2)(0) complied. PO Gomez considered \$87(2)(0) free to leave while they were speaking. However, PO Gomez did not convey this to \$87(2)(0) and \$87(2)(0) never asked to leave Board Review 02).
O Yanez's statement was generally consistent with PO Gomez's, with the following exceptions. The officers' attention was drawn to \$87(2)(b) s car only because it was parked at a bus stop. O Yanez had seen the car when the officers first went in the restaurant, about five minutes prior, but expected the car would move before they came back. PO Gomez approached the passenger's lide of the car. PO Yanez was about two feet from PO Gomez, who asked \$37(2)(b) to move list car. \$37(2)(b) complied. The exchange lasted approximately two minutes. PO Gomez did not ask \$37(2)(b) regarding marijuana. PO Yanez did not recall any conversation with \$37(2)(b) regarding marijuana. PO Yanez did not recall smelling marijuana during the incident, ither coming from the vehicle or in the air. PO Yanez did not have a clear view of \$37(2)(b) tut from what he could see, he did not observe any signs that \$37(2)(b) was under the influence of marijuana. \$37(2)(b) was free to leave at any time (Board Review 03).
- 37(2)(g)
Allegation B: Abuse of Authority- Police Officer Billy Gomez failed to provide with a business card. This is undisputed that PO Gomez did not provide \$87(2)(b) with a business card.
did not receive a business card and he did not request one (Board Review 01).
O Gomez stated that he did not provide \$87(2)(5) with a business card and that \$87(2)(5) id not request one. PO Gomez did not recall why he did not provide his business card, but by his wan account, should have (Board Review 02).

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provide one to §87(2)(b) (Board Review 03).
An officer should offer a Right to Know business card upon conclusion of law enforcement activities, including level 2 encounters, except in cases when a summons is issued or an arrest is made. Officers are to provide business cards, as appropriate, at the request of members of the public. The exceptions to providing a business card include issues of safety protecting undercove officers' identities, and impeding a criminal investigation. NYPD Patrol Guide 203-09 (Board Review 05)
§ 87(2)(g)
§ 87(2)(g), § 87(4-b)
• SSY(2)(b) has been party to nine CCRB complaints and has been named a victim in 27 allegations (Board Review 08):
o §87(2)(b)
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PO Yanez also stated that \$87(2)(b) did not request a business card and that PO Gomez did not

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	s been a member of servass been a subject.	ice for eight years and this is the first	CCRB complain
returned to inv On April 30, 2	, 2019, this case was servestigation as the complation 019, the New York City led in regard to this compared to the compa	Civil and Criminal Histories Into mediation and on March 31, 2019 Into mediation and on March 31, 2019 Into mediation was no longer eligible for mediation of the Comptroller has no recomplaint (Board Review 09).	on.
Squad No.:			
Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date

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